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10/815,479	03/31/2004	Hiroshi Itoh	1232-5360	8559
27123	7590	09/22/2008		
MORGAN & FINNEGAN, L.L.P. 3 WORLD FINANCIAL CENTER NEW YORK, NY 10281-2101			EXAMINER PINKNEY, DAWAYNE	
			ART UNIT	PAPER NUMBER
			2873	
			NOTIFICATION DATE	DELIVERY MODE
			09/22/2008	ELECTRONIC

**Please find below and/or attached an Office communication concerning this application or proceeding.**

The time period for reply, if any, is set in the attached communication.

Notice of the Office communication was sent electronically on above-indicated "Notification Date" to the following e-mail address(es):

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<b>Office Action Summary</b>	<b>Application No.</b> 10/815,479	<b>Applicant(s)</b> ITOHI, HIROSHI	
	<b>Examiner</b> DAWAYNE A. PINKNEY	<b>Art Unit</b> 2873	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

#### Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

#### Status

- 1) ☒ Responsive to communication(s) filed on 16 June 2008.
- 2a) ☒ This action is **FINAL**.                      2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

#### Disposition of Claims

- 4) ☒ Claim(s) 1-5, 12, 13, 15 and 17 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☐ Claim(s) 1-3, 5, 12-13, 15, and 17 is/are rejected.
- 7) ☒ Claim(s) 4 is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

#### Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

#### Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All    b) ☐ Some \*    c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
  2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
  3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

#### Attachment(s)

- |  |   |
|--|---|
| 1) <input type="checkbox"/> Notice of References Cited (PTO-892)                       | 4) <input type="checkbox"/> Interview Summary (PTO-413)           |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948)   | Paper No(s)/Mail Date. _____                                      |
| 3) <input checked="" type="checkbox"/> Information Disclosure Statement(s) (PTO/SB/08) | 5) <input type="checkbox"/> Notice of Informal Patent Application |
| Paper No(s)/Mail Date <u>12/20/2007, 12/21/2007 and 06/16/2008</u> .                   | 6) <input type="checkbox"/> Other: _____                          |



## DETAILED ACTION

### *Information Disclosure Statement*

1. The information disclosure statement (IDS) submitted on 12/20/2007, 12/21/2007, and 06/16/2008 has been considered by the examiner.

### *Claim Rejections - 35 USC § 103*

2. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

3. Claims 1, 12, 15, and 17 are rejected under 35 U.S.C. 103(a) as being unpatentable over Berger et al. (US 5, 912, 720) in view of Bille (US 6, 361, 170; already of record).

Regarding **claim 1**, Berger discloses, an ophthalmologic image pickup system, comprising:

an image pickup device (Column 3, lines 41-44, Column 5, lines 13-25 and 10 and 14 of Fig. 1) having;

an output unit for adding an image pickup device information to an image data of eye fundus which is picked up by the image pickup device, and outputting the image data to an image-processing device (Column 3, lines 41-44, Column 4, lines 7-10, Column 5, lines 34-40 and Fig. 1);

the image processing device (Column 3, lines 1-3, Column 3, lines 58-64, and Column 6, lines 44-47) having;

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a determination unit for determining an image processing to be performed based on the image pickup device information added to the image data which is outputted from the output unit (Column 3, lines 41-44, Column 4, lines 7-10 and Fig. 1); and

an image processing unit for performing the image processing on the image data to which the image pickup device information is added, in accordance with a determination result of the determination unit (Column 3, lines 1-3, Column 3, lines 58-64 and Column 6, lines 44-47).

Berger does not disclose the image processing device is connectable with a plurality of image pickup devices which pickup different image data to be performed different image processings, and wherein, in a case that the determination unit determines different image processing on each of image data picked up by the image pickup devices, the image processing unit performs different image processing corresponding to each image pickup device information.

Bille teaches, that in an ophthalmologic image pickup system having an image pickup device, and an image processing device that it would be desirable to make the image processing device is connectable with a plurality of image pickup devices which pickup different image data to be performed different image processings (40, 46, 50, 52 of Fig. 1), and wherein, in a case that the determination unit determines different image processing on each of image data picked up by the image pickup devices, the image processing unit performs different image processing corresponding to each image pickup device information (40, 46, 50, 52 of Fig. 1; inherent since each of the image pickup devices are different types of image pickup devices that capture different types of images, hence different image processings must be performed on the different types image data received from the different image pickup devices) for the purpose of providing

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an ophthalmologic image pickup device that is easy to use and is cost effective (Column 2, lines 23-25).

Therefore, it would have been obvious to one of ordinary skill in the art at the time the invention was made to make the image processing device is connectable with a plurality of image pickup devices which pickup different image data to be performed different image processings, and wherein, in a case that the determination unit determines different image processing on each of image data picked up by the image pickup devices, the image processing unit performs different image processing corresponding to each image pickup device information as taught by the ophthalmologic image pickup system of Bille in the ophthalmologic image pickup system of Berger since Bille teaches it is known to include these features in an ophthalmologic image pickup system for providing an ophthalmologic image pickup device that is easy to use and is cost effective (Column 2, lines 23-25).

Regarding **claim 12**, Berger and Bille disclose and teach as set forth above, and Berger further discloses, an ophthalmologic image pickup system according to claim 1, wherein the image pickup device information includes information regarding an image pickup mode of one of a color image pickup mode, a Fluorescein fundus angiography mode, and an Indocyanine green angiography mode (Column 1, lines 57-61, Column 3, lines 46-51 and Column 6, lines 29-33).

Regarding **claim 15**, Berger discloses, an ophthalmologic image processing apparatus, comprising:

a determination unit for determining an image processing to be performed based on an image pickup device information added to an image data of eye fundus which is picked up

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by an image pickup device and outputted from an output unit (Column 3, lines 41-44, Column 4, lines 7-10, and Fig. 1); and

an image processing unit for performing the image processing on the image data, to which the image pickup device information is added, in accordance with a determination result of the determination unit (Column 3, lines 1-3, Column 3, lines 58-64, Column 5, lines 34-36);

wherein the ophthalmologic image pickup system has an image pickup device that has the output unit for adding the image pickup device information to the image data of eye fundus which is picked up, and for outputting the image data to the image processing device (Column 3, lines 41-44, Column 4, lines 7-10, Column 5, lines 34-40, and Fig. 1).

Berger does not disclose the image processing device is connectable with a plurality of image pickup devices which pickup different image data to be performed different image processings, and wherein, in a case that the determination unit determines different image processing on each of image data picked up by the image pickup devices, the image processing unit performs different image processing corresponding to each image pickup device information.

Bille teaches, that in an ophthalmologic image pickup system having an image pickup device, and an image processing device that it would be desirable to make the image processing device is connectable with a plurality of image pickup devices which pickup different image data to be performed different image processings (40, 46, 50, 52 of Fig. 1), and wherein, in a case that the determination unit determines different image processing on each of image data picked up by the image pickup devices, the image processing unit performs different image processing corresponding to each image pickup device information (40, 46, 50, 52 of Fig. 1; inherent since

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each of the image pickup devices are different types of image pickup devices that capture different types of images, hence different image processings must be performed on the different types image data received from the different image pickup devices) for the purpose of providing an ophthalmologic image pickup device that is easy to use and is cost effective (Column 2, lines 23-25).

Therefore, it would have been obvious to one of ordinary skill in the art at the time the invention was made to make the image processing device is connectable with a plurality of image pickup devices which pickup different image data to be performed different image processings, and wherein, in a case that the determination unit determines different image processing on each of image data picked up by the image pickup devices, the image processing unit performs different image processing corresponding to each image pickup device information as taught by the ophthalmologic image pickup system of Bille in the ophthalmologic image pickup system of Berger since Bille teaches it is known to include these features in an ophthalmologic image pickup system for providing an ophthalmologic image pickup device that is easy to use and is cost effective (Column 2, lines 23-25).

Regarding **claim 17**, Berger discloses, an ophthalmologic image pickup device, comprising:

an output unit for adding an image pickup device information to an image data of eye fundus which is picked up, and for outputting the image data to an image processing apparatus (Column 3, lines 41-44, Column 4, lines 7-10, Column 5, lines 34-40, and Fig. 1);

the image processing device (Column 3, lines 1-3, Column 3, lines 58-64, and Column 6, lines 44-47) has;



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a determination unit for determining an image processing to be performed based on the image pickup device information added to the image data which is outputted from the output unit (Column 3, lines 41-44, Column 4, lines 7-10, and Fig. 1); and

an image processing unit for performing the image processing on the image data, to which the image pickup device information is added, in accordance with a determination result of the determination unit (Column 3, lines 1-3, Column 3, lines 58-64, and Column 6, lines 44-47).

Berger does not disclose the image processing device is connectable with a plurality of image pickup devices which pickup different image data to be performed different image processings, and wherein, in a case that the determination unit determines different image processing on each of image data picked up by the image pickup devices, the image processing unit performs different image processing corresponding to each image pickup device information.

Bille teaches, that in an ophthalmologic image pickup system having an image pickup device, and an image processing device that it would be desirable to make the image processing device is connectable with a plurality of image pickup devices which pickup different image data to be performed different image processings (40, 46, 50, 52 of Fig. 1), and wherein, in a case that the determination unit determines different image processing on each of image data picked up by the image pickup devices, the image processing unit performs different image processing corresponding to each image pickup device information (40, 46, 50, 52 of Fig. 1; inherent since each of the image pickup devices are different types of image pickup devices that capture different types of images, hence different image processings must be performed on the different

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types image data received from the different image pickup devices) for the purpose of providing an ophthalmologic image pickup device that is easy to use and is cost effective (Column 2, lines 23-25).

Therefore, it would have been obvious to one of ordinary skill in the art at the time the invention was made to make the image processing device is connectable with a plurality of image pickup devices which pickup different image data to be performed different image processings, and wherein, in a case that the determination unit determines different image processing on each of image data picked up by the image pickup devices, the image processing unit performs different image processing corresponding to each image pickup device information as taught by the ophthalmologic image pickup system of Bille in the ophthalmologic image pickup system of Berger since Bille teaches it is known to include these features in an ophthalmologic image pickup system for providing an ophthalmologic image pickup device that is easy to use and is cost effective (Column 2, lines 23-25).

4. Claims 2-3, 5, and 13 are rejected under 35 U.S.C. 103(a) as being unpatentable over Berger et al. (US 5, 912, 720) in view of Bille (US 6, 361, 170; already of record) as applied to claims 1, 10 and 15 above, further in view of The Admitted Prior Art.

Berger in view of Bille remains as applied to **claims 1, 10 and 15 above**.

Berger in view of Bille does not teach the image pickup device information includes information indicating whether or not at least one of processing for vertically reversing the image data and processing for horizontally reversing the image data should be performed by the image processing unit.

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The Admitted Prior Art discloses, the image pickup device information includes information indicating whether or not at least one of processing for vertically reversing the image data and processing for horizontally reversing the image data should be performed by the image processing unit (Page 2, lines 1-5 in The Admitted Prior Art of the instant specification).

It would have been obvious to one of ordinary skill in the art at the time the invention was made to use the image pickup device processing of The Admitted Prior Art with the combination of Berger in view of Bille because the image pickup device processing of The Admitted Prior Art is conventional.

Regarding **claim 3**, Berger, Bille, and The Admitted Prior Art disclose and teach as set forth above, and The Admitted Prior Art further teaches, an ophthalmologic image pickup system according to claim 1, wherein the image pickup device information includes information indicating whether or not the image data should be synthesized with an electronic aperture mask by the image processing unit (Page 2, lines 5-8).

Regarding **claim 5**, Berger, Bille, and The Admitted Prior Art disclose and teach as set forth above, and Berger further discloses, an ophthalmologic image pickup system according to claim 1, wherein the image pickup device information includes a description of a kind of the image pickup device (which is deemed inherent).

Regarding **claim 13**, Berger, Bille, and The Admitted Prior Art disclose and teach as set forth above, and The Admitted Prior Art further teaches, an ophthalmologic image pickup system according to claim 1, wherein the image processing unit performs at least one of conversion of the image data into a white-and-black image,  $\gamma$  characteristic adjustment thereof, and contrast processing thereof when information regarding an image pickup mode is one of a

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Fluorescein fundus angiography mode and an Indocyanine green angiography mode (Page 3, lines 2-14).

***Response to Arguments***

5. Applicant's arguments with respect to claims 1-3, 5, 12-13, 15, and 17 have been considered but are moot in view of the new ground(s) of rejection.

***Allowable Subject Matter***

6. Claim 4 is objected to as being dependent upon a rejected base claim, but would be allowable if rewritten in independent form including all of the limitations of the base claim and any intervening claims.

7. The following is a statement of reasons for the indication of allowable subject matter: none of the prior art either alone or in combination disclose or teach of the claimed combination of limitations to warrant a rejection under 35 USC 102 or 103. Specifically, in reference to dependent claim 4, none of the prior art either alone or in combination disclose or teach of the claimed ophthalmologic image pickup system specifically including, as the distinguishing feature(s) in combination with the other limitations the claimed "the determination unit determines the image processing to be performed in accordance with a processing table showing an image data processing method corresponding to the image pickup device information."

***Conclusion***

8. Applicant's amendment necessitated the new ground(s) of rejection presented in this Office action. Accordingly, **THIS ACTION IS MADE FINAL**. See MPEP § 706.07(a). Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the date of this final action.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to DAWAYNE A. PINKNEY whose telephone number is (571)270-1305. The examiner can normally be reached on Monday-Thurs. 8 a.m.- 4:30 p.m..

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Ricky Mack can be reached on (571) 272-2333. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

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Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

/Scott J. Sugarman/  
Primary Examiner, Art Unit 2873

/DaWayne A Pinkney/  
Examiner, Art Unit 2873  
09/11/2008